

**Introduced by Senator Migden**

February 24, 2006

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An act to amend Section 1564 of, and to add Sections 1531.5 and 1564.5 to, the Code of Civil Procedure, relating to unclaimed property, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1752, as introduced, Migden. Unclaimed property.

(1) Existing law provides for the escheat to the state of abandoned property, including certain deposits, accounts, shares, or other interests with a banking or financial organization, business association, or other holder of personal property. Existing law requires that all money received pursuant to these provisions, including the proceeds from the sale of property, be deposited in the Abandoned Property Account in the Unclaimed Property Fund. This fund is continuously appropriated to the Controller, and existing law requires the Controller to transfer all money in the fund in excess of \$50,000 to the General Fund at the end of each month, as specified. Existing law requires the Controller to record the names and last known addresses of each person in connection with the escheated property, as specified, and this record must be available to the public. Existing law, in the Budget Act of 2005, limits the use of money appropriated to the Controller for the purpose of providing general information to the public regarding the unclaimed property program.

This bill would delete the requirement that the Controller transfer all money in the Unclaimed Property Fund in excess of \$50,000 to the General Fund and to record and make available specified names and addresses, as described above. The bill would instead require that the Unclaimed Property Fund be administered by the Treasurer who shall have custody of all money belonging to the fund that is not otherwise

held, deposited, or invested, as specified. The bill would require the Treasurer to invest or otherwise administer the Unclaimed Property Fund under the supervision of the Controller, and would permit the Treasurer to elect to invest the money in the fund in the Surplus Money Investment Fund and to revoke that election, as specified. The bill would provide that the costs associated with administering unclaimed property shall be paid by an appropriation in the annual Budget Act from the Unclaimed Property Fund. The bill would require the Controller to conduct outreach programs to owners to inform them about the possible existence of unclaimed property being held by the Controller, as specified. By requiring General Fund money in a continuously appropriated fund to be spent for a new purpose, this bill would make an appropriation. The bill would require state and local agencies to make information, including confidential information, available to the Controller, if the information could reasonably be used to locate an owner of unclaimed property. By imposing new duties on local agencies this bill would create a state-mandated local program. The bill would provide that if a fee or charge is customarily made for the information requested by the Controller, the Controller shall pay it.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1531.5 is added to the Code of Civil
- 2 Procedure, to read:
- 3 1531.5. (a) The Controller shall conduct outreach programs
- 4 to owners to inform them about the possible existence of
- 5 unclaimed property being held by the Controller's Office and
- 6 shall establish and maintain procedures to locate the owners of
- 7 unclaimed property received pursuant to this chapter.

1 (b) A notice to the apparent owner of an unclaimed property  
2 account may be issued by the Controller to notify the apparent  
3 owner of the existence of unclaimed property and to initiate a  
4 claim. Neither a photograph nor an elected official's name shall  
5 appear on notices issued under this section.

6 (c) (1) Notwithstanding any other provision of law, upon  
7 request of the Controller, any state or local governmental agency  
8 shall furnish to the Controller from its records the address or any  
9 other identification or location information that could reasonably  
10 be used to locate an owner of unclaimed property.

11 (2) If an address or other identification or location information  
12 requested by the Controller is confidential under any law or  
13 regulation, it shall be furnished to the Controller, provided that  
14 neither the Controller nor any officer, agent, or employee of the  
15 Controller may use or disclose this information except as may be  
16 necessary to locate the owner of unclaimed property.

17 (3) If a fee or charge is customarily made for the information  
18 requested by the Controller, the Controller shall pay that  
19 customary fee or charge.

20 SEC. 2. Section 1564 of the Code of Civil Procedure is  
21 amended to read:

22 1564. (a) All money received under this chapter, including  
23 the proceeds from the sale of property under Section 1563, shall  
24 be deposited in the Unclaimed Property Fund in an account titled  
25 "Abandoned Property."

26 (b) Notwithstanding Section 13340 of the Government Code,  
27 all money in the Abandoned Property Account in the Unclaimed  
28 Property Fund is hereby continuously appropriated to the  
29 Controller, without regard to fiscal years, for expenditure in  
30 accordance with law in carrying out and enforcing the provisions  
31 of this chapter, including, but not limited to, the following  
32 purposes:

33 (1) For payment of claims allowed by the Controller under the  
34 provisions of this chapter.

35 (2) For refund, to the person making such deposit, of amounts,  
36 including overpayments, deposited in error in such fund.

37 (3) For payment of the cost of appraisals incurred by the  
38 Controller covering property held in the name of an account in  
39 such fund.

(4) For payment of the cost incurred by the Controller for the purchase of lost instrument indemnity bonds, or for payment to the person entitled thereto, for any unpaid lawful charges or costs which arose from holding any specific property or any specific funds which were delivered or paid to the Controller, or which arose from complying with this chapter with respect to such property or funds.

(5) For payment of amounts required to be paid by the state as trustee, bailee, or successor in interest to the preceding owner.

(6) For payment of costs incurred by the Controller for the repair, maintenance, and upkeep of property held in the name of an account in such fund.

(7) For payment of costs of official advertising in connection with the sale of property held in the name of an account in such fund.

~~(8) For transfer to the General Fund as provided in subdivision (e) payment of outreach activities conducted pursuant to Section 1531.5.~~

(9) For transfer to the Inheritance Tax Fund of the amount of any inheritance taxes determined to be due and payable to the state by any claimant with respect to any property claimed by him or her under the provisions of this chapter.

~~(c) At the end of each month, or more often if he or she deems it advisable, the Controller shall transfer all money in the Abandoned Property Account in excess of fifty thousand dollars (\$50,000) to the General Fund. Before making this transfer, the Controller shall record the name and last known address of each person appearing from the holders' report to be entitled to the escheated property and the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, and the name of the corporation. The record shall be available for public inspection at all reasonable business hours. Costs for administering the duties required by this title shall be paid by an appropriation in the annual Budget Act from the Unclaimed Property Fund.~~

SEC. 3. Section 1564.5 is added to the Code of Civil Procedure, to read:

1564.5. (a) The Unclaimed Property Fund shall be administered by the Treasurer who shall have custody of all

1 money belonging to that fund that is not otherwise held,  
2 deposited, or invested under this title.

3 (b) The official bond of the Treasurer shall cover the faithful  
4 performance of his or her duties as administrator of the  
5 Unclaimed Property Fund. The Treasurer shall invest or  
6 otherwise administer the Unclaimed Property Fund under the  
7 supervision of the Controller.

8 (c) The Treasurer may, pursuant to Section 16470 of the  
9 Government Code, file with the Pooled Money Investment Board  
10 a notice of election that investment of surplus money in the  
11 Unclaimed Property Fund shall come under the provisions of the  
12 Surplus Money Investment Fund, and may revoke that election  
13 pursuant to Section 16470 of the Government Code. As of the  
14 effective date of any election with respect to the Unclaimed  
15 Property Fund filed pursuant to Section 16470 of the  
16 Government Code, the Treasurer shall transfer the surplus money  
17 in the Unclaimed Property Fund to the Surplus Money  
18 Investment Fund, and may transfer all or any portion of the  
19 investments held by the Unclaimed Property Fund at the date of  
20 that election, from the Unclaimed Property Fund to the Surplus  
21 Money Investment Fund. As of the effective date of the  
22 revocation of any election, the Treasurer shall transfer from the  
23 Surplus Money Investment Fund to the Unclaimed Property Fund  
24 the surplus money and earnings attributable to the Unclaimed  
25 Property Fund.

26 SEC. 4. If the Commission on State Mandates determines that  
27 this act contains costs mandated by the state, reimbursement to  
28 local agencies and school districts for those costs shall be made  
29 pursuant to Part 7 (commencing with Section 17500) of Division  
30 4 of Title 2 of the Government Code.